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*Guidelines*OLC 78-0647/4
25 August 1978

MEMORANDUM FOR THE RECORD

SUBJECT: Inter-Agency Meeting Held on 25 August 1978 to Discuss a Request by the Senate Foreign Relations Subcommittee on International Operations, Chaired by Senator George McGovern (D., S. Dak.) Concerning Electronic Surveillance Operations

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1. [] Representatives of the Agency, State Department, FBI, and the National Security Agency met to discuss problems raised by Senator McGovern's 11 August letter to Bureau of Intelligence and Research (INR) Director William G. Bowdler. Present from the Agency were the undersigned and [] of OLC; [] OGC. The FBI was represented by Neil Sullivan and Ron Heller. NSA representatives were General Counsel [] along with []

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[] The State Department delegation included Laurence Storch and Jeffrey Smith, of the Legal Adviser's Office, along with Ted Heavner and Richard Curl, of INR.

2. (S) There was a general exchange of information among the agencies on their individual dealings with Subcommittee staffers Michael J. Glennon and John B. Ritch, including the various procedures used in making information available to the Subcommittee and the kinds of substantive material involved. It was determined that all the agencies, except the State Department, had formal Memorandums of Understanding with the Subcommittee. The State Department representatives said they saw no need for such a formal understanding, and they pointed out that the Senate Foreign Relations Committee was the Department's oversight Committee.

3. (S) A discussion of third agency rule procedures basically confirmed the understanding previously worked out between CIA and the State Department regarding procedures to be used when the State Department encountered in its files CIA documents related to a request for information by the Subcommittee. Generally speaking, this procedure will work as follows with regard to all the concerned agencies:

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- A list of the documents belonging to an originating agency will be forwarded to that agency by the agency dealing with the particular Subcommittee request.
- The Subcommittee will be informed that the originating agency has been provided with such a list, but the documents on the list will not be specifically identified to the Subcommittee. This is in accordance with the NSC position that the Executive-Legislative understanding on the third agency rule worked out at the 3 August Senate-House Conference on the State Department Authorization Bill was meant to apply to both classified documents and lists of classified documents.
- The originating agency will communicate directly with the Subcommittee as to whether and how the documents will be made available.



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5.  With regard to the latest oral request received by the State Department from Glennon, the following strategy was agreed upon:



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--- Upon receiving this request in writing, State will consult further with the interested agencies, with a view toward interpreting the request narrowly and in any case responding only in terms of the bureaucratic process involved in State's concurrence in FBI counterintelligence surveillances. The FBI has already briefed the Subcommittee staff on this subject.

--- Should the Subcommittee question State concerning the bureaucratic process involved in the approval of foreign intelligence electronic surveillances, particularly with respect to State's role in this inter-agency approval process, State will reply that this is an area within the jurisdiction of the DCI and refer the Subcommittee to us. At that point, the interested agencies will consult further regarding the advisability of requesting the Senate Select Committee on Intelligence to interpose itself between the McGovern Subcommittee and the Intelligence Community.

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6. ☐ Other points of information that emerged during the meeting included:



Assistant Legislative Counsel

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Distribution:

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OLC:GMC:jms (29 August 1978)

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